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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,164	02/13/2002	Soohyun Ham	M-12511 US	8634
32681	7590	06/04/2004	EXAMINER	
PLANTRONICS, INC. 345 ENCINAL STREET P.O. BOX 635 SANTA CRUZ, CA 95060-0635			DABNEY, PHYLESHA LARVINIA	
			ART UNIT	PAPER NUMBER
			2643	17
DATE MAILED: 06/04/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/076,164	HAM, SOOHYUN
	Examiner Phylesha L Dabney	Art Unit 2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 13 February 2002.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-7,9-17,20,23-26 and 28-31 is/are rejected.

7)  Claim(s) 8,18,21,22 and 27 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

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**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2,3,11,14.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## **DETAILED ACTION**

This action is in response to the application filed on 13 December 2001 in which claims 1-31 are pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not understood how the headset achieves pivoting about a contact point that is located between the speaker capsule and the inner recess of the user's ear when the pivotal joint is located at interface 105.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4-7, 9-13, and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Keliiliki (U.S. Patent No. 5,412,736).

Regarding claim 1, Keliiliki teaches an ear clasp headset comprising: a speaker capsule (40) for transmitting sound to a user's ear, wherein the speaker capsule is capable of contacting an inner recess of the user's ear (fig. 3, 5); a headset body (42) operably coupled to the speaker capsule, wherein the headset body (42) is capable of contacting an outer portion (68) of the user's ear; and a headset tail (76) operably coupled to the headset body, wherein the headset tail (76) comprises a curved structure capable of flexing open and close for contacting a lower portion of the user's ear.

Regarding claim 4, Keliiliki teaches the speaker capsule (40) and the headset body are operably coupled together by a movable joint (Arrow C).

Regarding claim 5, Keliiliki teaches the headset body (42) is capable of contacting the user's earlobe.

Regarding claim 6, Keliiliki teaches the headset body (42) comprises a curved structure following a non-circular curve.

Regarding claim 7, Keliiliki teaches the headset body (42) further comprises a detachable accent (44).

Regarding claim 9, Keliiliki teaches the headset body (42) further comprises an extension mechanism for elongating the headset body (42) to a selected length.

Regarding claim 10, Keliiliki teaches the headset body (42) and headset tail (76) are operably coupled together by a movable joint.

Regarding claim 11, Keliiliki teaches the headset tail (76) comprises an elastomer with

grooves.

Regarding claim 12, Keliiliki teaches the headset tail (76) comprises a wire.

Regarding claim 13, Keliiliki teaches the headset tail (76) is capable of contacting a back portion of the user's ear (fig. 2-5).

Method claims 29-31 are similar to claims 1, 4-7, and 9-13 except for being couched in method terminology; such methods would be inherent when the structure is shown in the references.

3. Claims 17, 19-20, 23-26, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Skulley et al (U.S. Patent No. 6,449,374).

Regarding claim 17, Skulley teaches a speaker capsule (56) for transmitting sound to a user's ear from a transducer; a headset body (10) operably coupled to the speaker capsule, wherein the headset body comprises a curved structure housing at least one wire (62) operably coupling the transducer to an audio source; a headset tail (near 46) operably coupled to the headset body, wherein the headset tail (near 46) comprises a curved structure capable of flexing open and close for contacting a lower portion of the user's ear; and a microphone (60) operably coupled to the headset body for transmitting sound from the user.

Regarding claim 19, Skulley teaches the speaker capsule (56) and the headset body (10) are operably coupled together by a movable joint.

Regarding claim 20, Skulley teaches the headset body (10) is capable of contacting an outer portion of the user's ear.

Regarding claim 23, Skulley teaches the headset body (10) further comprises an

extension mechanism for elongating the headset body to a selected length (fig. 2E).

Regarding claim 24, Skulley teaches the headset body (10) and the headset tail (near 46) are operably coupled together by a movable joint.

Regarding claim 25, Skulley teaches the headset tail (near 46) is capable of contacting a back portion of the user's ear.

Regarding claim 26, Skulley teaches the headset tail (near 46) comprises an elastomer with grooves (28A, 28B).

Regarding claim 28, Skulley teaches the microphone (60) operably coupled to a boom which is operably coupled to the headset body (fig. 1C).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keliiliki (U.S. Patent No. 5,412,736),

Regarding claims 2-3, Keliiliki does not teach the speaker capsule comprises a transducer and a speaker faceplate for directing sound. However, the examiner takes official notice that it is known to include a faceplate on a speaker capsule for structural containing and positioning the speaker transducer within the speaker capsule. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a faceplate as part of the

speaker enclosure/capsule for structurally encapsulating the speaker transducer within the speaker capsule.

5. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keliiliki (U.S. Patent No. 5,412,736), in view of Yang (U.S. Patent No. 6,097,827).

Regarding claim 14, Keliiliki does not teach a microphone operably coupled to the headset body. Yang (figs. 2-3) teaches operably coupling a microphone (56) to a headset body for beneficially providing multi-functional mobile voice transmit and receive headset. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to operably couple a microphone to the headset body of Keliiliki in the manner as taught by Yang (figs. 2-3, col. 3 lines 21-59) to optimally provide a dual transmit/receiver headset

Regarding claim 15, Keliiliki does not teach a microphone is embedded in a pod along at least one wire coupling the transducer to an audio source. Yang (figs. 2-3) teaches a microphone (56) is embedded in a pod (54) along at least one wire (fig. 3) coupling the transducer to an audio source for beneficially providing multi-functional mobile voice transmit/receive headset and securing of the microphone. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to operably couple an embedded microphone to the headset body of Keliiliki in the manner as taught by Yang (figs. 2-3, col. 3 lines 21-59) to optimally provide a dual transmit/receiver headset and protection for the microphone.

Regarding claim 16, Keliiliki does not teach a microphone is operably coupled to a boom, which is operably coupled to the headset body. Yang teaches a microphone is operably coupled

to a boom (52), which is operably coupled to a headset body for beneficially providing multi-functional mobile voice transmit/receive headset and securement of the microphone. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to operably couple a microphone to a boom which is operably coupled to the headset of Keliiliki in the manner as taught by Yang (figs. 2-3, col. 3 lines 21-59) to optimally provide a dual transmit/receiver headset and protection for the microphone.

***Allowable Subject Matter***

6. Claims 8, 18, 21-22, and 27 are rejected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

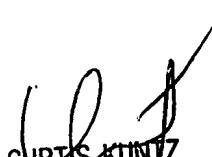
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L Dabney whose telephone number is 703-306-5415. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on 703-305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 25, 2004  
  
PLD

  
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SUPERVISORY PATENT EXAMINER  
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